IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

RFA No. 164 of 2002

Date of Decision : September 5, 2007

State of H.P. and others …Appellants

Versus:

Garboo Devi …Respondent

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting? [1] *No*

For the appellants: Mr. Ashok Chaudhary, Addl. Advocate General.

For the respondent : Mr. Janesh Gupta, Advocate

Sanjay Karol, J. (Oral)

The present appeal arises out of the award dated 4.4.2001 passed in Land Reference Case No. 40-S/4 of 1996 titled as Garboo Devi v. LAC, Shimla & Others, enhancing the amount of compensation for the value of the trees to the extent of 664% and payment of statutory interest from the date of possession, which in this case is much prior to the date of issuance of Notification issued u/s 4 of the Land Acquisition Act (hereinafter referred to as 'the Act').

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

Learned Additional Advocate General, in all fairness, has not assailed the award on the quantum of enhanced amount but, however, has referred to the decision rendered by the Apex Court in ***Siddappa Vasappa Kuri and another*** v. ***Special Land Acquisition Officer and another*** (2002(1) SCC 142) to contend that the statutory interest u/s 23(1-A) could have been awarded only from the date of publication of the Notification u/s 4 and not from the date of actual possession which in the present case is prior to the date of notification.

Perusal of the impugned award would show that the notification for acquisition of the land in question was published on 12.11.1992 and the award was passed by the Collector on 11.1.1995.

The award shows that the land was acquired for the public purpose, namely, 'construction of Kalbog-Kui-Nal-Road' which infact was constructed in the year 1989 and the possession of the acquired land was taken on 11.11.1989. Undoubtedly, keeping in view the ratio of law laid down by the Apex Court in ***Siddappa Vasappa Kuri*** (supra), the date of possession for the purpose of section 23(1-A) has to be 12.11.1992 and not 11.11.1989. Therefore, the award needs to be modified.

Accordingly, it is directed that for the purposes of determination of interest and compensation, the date of

possession as envisaged u/s 23(1-A), 23(2), 28 & 34 of the Act shall be the date of publication of the notification which is 12.11.1992. The impugned award is accordingly modified.

Since the possession of the land owners was infact taken in the year 1989 and they have been deprived of the use of their land, in the interest of justice, it is directed that the appellants shall pay the awarded amount, if not already deposited in this Court to the respondent within a period of four months from today.

The appeal is accordingly disposed of.

(Sanjay Karol),
Judge.

September 5, 2007.
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